

AMENDED IN SENATE APRIL 16, 2009

**SENATE BILL**

**No. 678**

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**Introduced by ~~Senator Leno~~ *Senators Leno and Benoit***  
***(Coauthors: Senators Ducheny, Hancock, and Steinberg)***

February 27, 2009

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*An act ~~relating to crime~~ to add Chapter 3 (commencing with Section 1228) to Title 8 of Part 2 of the Penal Code, relating to probation, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 678, as amended, Leno. Criminal recidivism.

Existing law establishes provisions authorizing the Department of Corrections and Rehabilitation to oversee programs for the purposes of reducing parolee recidivism.

~~This bill would set forth the Legislature's intent to enact legislation that would reduce recidivism and improve public safety by redirecting state public resources to community corrections for the purpose of intervention and supervision over nonviolent offenders facing short prison commitments as an alternative to state prison. The bill would also declare the Legislature's intent to authorize a county, city and county, or a collaboration of counties or cities and counties to establish a community corrections program to which convicted felony offenders who are not required to register as sex offenders and have never been convicted of a serious felony or a violent felony may be sentenced for up to 9 months, followed by a 4-year probationary period. The bill would also set forth the Legislature's intent to enact legislation funding the community corrections program from the General Fund redirecting state prison incarceration costs to the costs of these community corrections programs.~~ *authorize each county to establish a Community*

*Corrections Performance Incentive Fund (CCPIF) and would require the state to annually allocate money into each county's fund to be used for specified purposes relating to improving probation supervision practices and capacities, as specified. This bill would require the Director of Finance to calculate the amount of money to be appropriated from the General Fund into a CCPIF fund. This bill would specify that the calculation would be based on costs avoided by the Department of Corrections and Rehabilitation because of a reduction in the percentage of people sent to prison for a probation failure, as specified. This bill would also require each county using CCPIF funds to identify and track specific outcome-based measures, as specified, and report to the Administrative Office of the Courts on the effectiveness of the programs paid for by the CCPIF.*

*This bill would require the community corrections programs to be developed and implemented by probation as advised by a Community Corrections Partnership. This bill would require specified local officials to serve as part of that Community Corrections Partnership. Because this bill would increase the duties for certain local officials, it would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. This act shall be known and may be cited as the
- 2     California Community Corrections Performance Incentive Act of
- 3     2009.
- 4     SEC. 2. Chapter 3 (commencing with Section 1228) is added
- 5     to Title 8 of Part 2 of the Penal Code, to read:

CHAPTER 3. CALIFORNIA COMMUNITY CORRECTIONS  
PERFORMANCE INCENTIVES

1228. The Legislature finds and declares all of the following:  
(a) In 2007, nearly 270,000 felony offenders were subject to probation supervision in California's communities.

(b) In 2007, out of 46,987 new admissions to state prison, nearly 20,000 were felony offenders who were committed to state prison after failing probation supervision.

(c) Probation is a judicially imposed suspension of sentence that attempts to supervise, treat, and rehabilitate offenders while they remain in the community under the supervision of the probation department. Probation is a linchpin of the criminal justice system, and plays a central role in promoting public safety in California's communities.

(d) Providing sustainable funding for improved, evidence-based probation supervision practices and capacities will improve public safety outcomes among adult felons who are on probation. Improving felony probation performance, measured by a reduction in felony probationers who are sent to prison because they were revoked on probation or convicted of another crime while on probation, will reduce the number of new admissions to state prison, saving taxpayer dollars and allowing a portion of those state savings to be redirected to probation for investing in community corrections programs.

1229. As used in this chapter, the following definitions apply:

(a) "Community corrections" means the placement of persons convicted of a felony offense under probation supervision, with conditions imposed by a court for a specified period.

(b) "Chief probation officer" means the chief probation officer for the county or city and county in which an adult offender is subject to probation for the conviction of a felony offense.

(c) "Community Corrections Program" means a program established pursuant to this act consisting of a system of felony probation supervision services dedicated to all of the following goals:

(1) Enhancing public safety through the management and reduction of offender risk while under felony probation supervision and upon reentry from jail into the community.

1     (2) *Providing a range of probation supervision tools, sanctions,*  
2 *and services applied to felony probationers based on a risk/needs*  
3 *assessment for the purpose of reducing criminal conduct and*  
4 *promoting behavioral change that results in reducing recidivism*  
5 *and promoting the successful reintegration of offenders into the*  
6 *community.*

7     (3) *Maximizing offender restitution, reconciliation, and*  
8 *restorative services to victims of crime.*

9     (4) *Holding offenders accountable for their criminal behaviors*  
10 *and for successful compliance with applicable court orders and*  
11 *conditions of supervision.*

12     (5) *Improving public safety outcomes for persons placed on*  
13 *probation for a felony offense, as measured by their successful*  
14 *completion of probation and commensurate reduction in the rate*  
15 *of felony probationers sent to prison as a result of a probation*  
16 *revocation or conviction of a new crime.*

17     (d) *“Evidence-based practices” refers to supervision policies,*  
18 *procedures, programs and practices demonstrated by scientific*  
19 *research to reduce recidivism among individuals under probation,*  
20 *parole, or post-release supervision.*

21     1230. (a) *Each county is hereby authorized to establish in*  
22 *each county treasury a Community Corrections Performance*  
23 *Incentive Fund (CCPIF), to receive all amounts allocated to that*  
24 *county for purposes of implementing this chapter.*

25     (b) *In any fiscal year for which a county receives money to be*  
26 *expended for the implementation of this chapter, the county auditor*  
27 *shall allocate moneys in the county’s CCPIF, including any interest*  
28 *or other return earned on the investment of those moneys, within*  
29 *30 days of the deposit of those moneys into the fund, and shall*  
30 *allocate those moneys in accordance with all of the following*  
31 *requirements:*

32     (1) *One hundred percent to the chief probation officer in his or*  
33 *her capacity as head of the county probation department*  
34 *responsible for supervising adult felony probationers, hereinafter*  
35 *“probation,” to implement the community corrections program*  
36 *authorized by this chapter.*

37     (2) *The community corrections program shall be developed and*  
38 *implemented by probation and advised by a local Community*  
39 *Corrections Partnership.*

1     (3) *The local Community Corrections Partnership shall be*  
2 *chaired by the chief probation officer and comprised of the*  
3 *following membership:*

4     (A) *The presiding judge of the superior court, or his or her*  
5 *designee;*

6     (B) *The chief administrative officer for the county.*

7     (C) *The district attorney.*

8     (D) *The public defender.*

9     (E) *The sheriff.*

10    (F) *A chief of police.*

11    (G) *The head of the county department of social services.*

12    (H) *The head of the county department of mental health.*

13    (I) *The head of the county department of employment.*

14    (J) *The head of the county alcohol and substance abuse*  
15 *programs.*

16    (K) *The head of the county office of education.*

17    (L) *A representative from a community-based organization with*  
18 *experience in successfully providing rehabilitative services to*  
19 *persons who have been convicted of a criminal offense.*

20    (4) *Funds allocated to probation pursuant to this act shall be*  
21 *used to provide supervision and rehabilitative services for adult*  
22 *felony offenders subject to probation, and shall be spent on*  
23 *evidence-based community corrections practices and programs,*  
24 *which may include, but are not limited to, the following:*

25    (A) *Implementing and expanding evidence-based risk and needs*  
26 *assessments.*

27    (B) *Implementing and expanding intermediate sanctions that*  
28 *include, but are not limited to, electronic monitoring, mandatory*  
29 *community service, home detention, day reporting, restorative*  
30 *justice programs, work furlough programs, and incarceration in*  
31 *county jail for up to 90 days.*

32    (C) *Providing more intensive probation supervision.*

33    (D) *Expanding the availability of evidence-based rehabilitation*  
34 *programs including, but not limited to, drug and alcohol treatment,*  
35 *mental health treatment, anger management, cognitive behavior*  
36 *programs, and job training and employment services.*

37    (E) *Evaluating the effectiveness of rehabilitation and supervision*  
38 *programs and ensuring program fidelity.*

39    (5) *The chief probation officer shall have discretion to spend*  
40 *funds on any of the above practices and programs consistent with*

1 *this act but, at a minimum, shall devote at least 5 percent of all*  
2 *funding received to expanding the availability of rehabilitation*  
3 *programs and evaluating the effectiveness of those programs. A*  
4 *chief probation officer may petition the Administrative Office of*  
5 *the Courts to have this restriction waived, and the Administrative*  
6 *Office of the Courts shall have the authority to grant such a*  
7 *petition, if there is already sufficient availability of evidence-based*  
8 *programs for adult probationers in that jurisdiction.*

9 *(6) Each probation department receiving funds under this*  
10 *chapter shall maintain a complete and accurate accounting of all*  
11 *funds received pursuant to this chapter.*

12 *1231. (a) Community corrections programs funded pursuant*  
13 *to this act shall identify and track specific outcome-based measures*  
14 *consistent with the goals of this act.*

15 *(b) The Administrative Office of the Courts, in consultation with*  
16 *the Chief Probation Officers of California, shall specify and define*  
17 *minimum required outcome-based measures, which shall include,*  
18 *but not be limited to, all of the following:*

19 *(1) The percentage of persons on felony probation who are*  
20 *being supervised in accordance with evidence-based practices.*

21 *(2) The percentage of state moneys expended for programs that*  
22 *are evidence-based, and a descriptive list of all programs that are*  
23 *evidence-based.*

24 *(3) Specification of supervision policies, procedures, programs,*  
25 *and practices that were eliminated.*

26 *(4) The percentage of persons on felony probation who*  
27 *successfully complete the period of probation.*

28 *(c) Each probation department receiving funding pursuant to*  
29 *Section 1233 shall provide an annual written report to the*  
30 *Administrative Office of the Courts evaluating the effectiveness of*  
31 *the community corrections program, including, but not limited to,*  
32 *the data described in subdivision (b).*

33 *1232. Commencing no later than 18 months following the initial*  
34 *receipt of funding pursuant to this act and annually thereafter, the*  
35 *Administrative Office of the Courts, in consultation with the*  
36 *Department of Corrections and Rehabilitation, the Department of*  
37 *Finance and the Chief Probation Officers of California, shall*  
38 *submit to the Governor and the Legislature a comprehensive report*  
39 *on the implementation of this act. The report shall include, but not*  
40 *be limited to, all of the following information:*

1     (a) *The effectiveness of the community corrections program*  
2 *based on the reports of performance-based outcome measures*  
3 *required in Section 1231.*

4     (b) *The percentage of felony probationers whose probation was*  
5 *revoked for the year on which the report is being made.*

6     (c) *The percentage of felony probationers who were convicted*  
7 *of crimes during their term of probation for the year on which the*  
8 *report is being made.*

9     (d) *The impact of the moneys appropriated pursuant to this act*  
10 *to enhance public safety by reducing the percentage and number*  
11 *of felony probationers whose probation was revoked for the year*  
12 *being reported on for probation violations or new convictions,*  
13 *and to reduce the number of felony probationers who are sent to*  
14 *prison for the year on which the report is being made.*

15     (e) *Any recommendations regarding resource allocations or*  
16 *additional collaboration with other state, regional, federal, or*  
17 *local entities, or other for improvements to this act.*

18     1233. (a) *Baseline Calculation. The Director of Finance, in*  
19 *consultation with the Department of Corrections and*  
20 *Rehabilitation, the Joint Legislative Budget Committee, and the*  
21 *Administrative Office of the Courts, shall calculate a baseline*  
22 *felony probation revocation rate for each county based on the*  
23 *average number of felony probationers who entered state prison*  
24 *from that county for the fiscal years 2006–07, 2007–08, and*  
25 *2008–09 as a result of a probation revocation or conviction for a*  
26 *new offense while on probation.*

27     (b) *Annual Calculation. For the 2009–10 fiscal year, and each*  
28 *fiscal year thereafter, the Director of Finance, in consultation with*  
29 *the Department of Corrections and Rehabilitation, the Joint*  
30 *Legislative Budget Committee, and the Administrative Office of*  
31 *the Courts, shall calculate costs to the Department of Corrections*  
32 *and Rehabilitation that have been avoided, including costs*  
33 *associated with incarceration, community supervision, and parole*  
34 *revocations and revocation proceedings, due to reductions,*  
35 *calculated for each county and statewide, in the percentage of*  
36 *people on supervised felony probation whose probation is revoked*  
37 *and who are sentenced to serve a term of imprisonment in state*  
38 *prison, or who while on supervised probation are admitted to state*  
39 *prison after a conviction for a new offense, based on all of the*  
40 *following:*

1     (1) *The felony probation revocation rate for each county based*  
2     *on the number of felony probationers who entered state prison*  
3     *from that county as a result of revocation of probation.*

4     (2) *The felony probation revocation rate for each county based*  
5     *on the number of felony probationers who entered state prison*  
6     *from that county as a result of a conviction of a new felony while*  
7     *on probation.*

8     (c) *The Legislature shall annually appropriate to the*  
9     *Administrative Office of the Courts 50 percent of any cost savings*  
10    *calculated pursuant to subdivision (b), to be deposited into the*  
11    *Community Corrections Performance Incentive Fund (CCPIF) of*  
12    *each county established pursuant to Section 1230 pursuant to all*  
13    *of the following provisions:*

14    (1) *Twenty percent of the savings calculated pursuant to*  
15    *subdivision (b) attributable to that county, divided by 50 percent,*  
16    *as calculated pursuant to paragraphs (1) and (2) of subdivision*  
17    *(b), where the county's felony probation revocation rate for that*  
18    *year is less than the baseline felony probation revocation rate*  
19    *established pursuant to subdivision (a).*

20    (2) *Forty percent of the savings calculated pursuant to*  
21    *subdivision (b) attributable to the county, divided by 50 percent,*  
22    *as calculated pursuant to paragraphs (1) and (2) of subdivision*  
23    *(b), where the county's felony probation revocation rate for that*  
24    *year is at least 5 percent less than the baseline felony probation*  
25    *revocation rate established pursuant to subdivision (a).*

26    (3) *One hundred percent of the savings calculated pursuant to*  
27    *subdivision (b) attributable to the county, divided by 50 percent,*  
28    *as calculated pursuant to paragraphs (1) and (2) of subdivision*  
29    *(b), where the county's felony probation revocation rate for that*  
30    *year is at least 10 percent less than the baseline felony probation*  
31    *revocation rate established pursuant to subdivision (a).*

32    (d) *The moneys appropriated pursuant to this section shall be*  
33    *used to supplement, not supplant, any other state or county*  
34    *appropriation for the chief probation officer or the probation*  
35    *department.*

36    (e) *Up to 3 percent of moneys appropriated to the Administrative*  
37    *Office of the Courts pursuant to subdivision (c) shall be used for*  
38    *the costs of administering this program.*

39    (f) *Any funds remaining in the CCPIF not allocated pursuant*  
40    *to subdivision (c) may be awarded to chief probation officers for*



1 *counties that have achieved no reduction in the baseline set for*  
2 *their county as follows:*

3 *(1) Applications for assistance grants under this subdivision*  
4 *shall be competitive, based on grant applications which*  
5 *demonstrate the applicant's ability to apply awarded funding as*  
6 *prescribed in paragraph (2).*

7 *(2) Awards shall be limited to the following purposes:*

8 *(A) Assessing the county's current community corrections*  
9 *practices and programs.*

10 *(B) Identifying any deficiencies in those practices and programs*  
11 *which may be the basis for the county's felony probation revocation*  
12 *rate.*

13 *(C) Implementing evidence-based community corrections*  
14 *strategies authorized by this act.*

15 *(3) Awards granted pursuant to this subdivision shall be*  
16 *awarded to one county for no more than two fiscal years.*

17 *(4) Awards granted pursuant to this subdivision shall not exceed*  
18 *10 percent of a county's maximum allocation as calculated in*  
19 *subdivision (c).*

20 *(5) The moneys appropriated pursuant to this section shall be*  
21 *used to supplement, not supplant, any other state or county*  
22 *appropriation for the chief probation officer or the probation*  
23 *department.*

24 *(g) Funds unexpended by county probation departments at the*  
25 *end of the fiscal year in which they are awarded may, with the*  
26 *approval of the Administrative Office of the Courts, be carried*  
27 *over into the next fiscal year if such funds constitute no more than*  
28 *10 percent of the total funding. Unexpended funds in excess of 10*  
29 *percent of the total funding awarded, or funds not approved by*  
30 *the Administrative Office of the Courts to be carried over into the*  
31 *next fiscal year, shall be returned to the CCPIF for purposes*  
32 *consistent with this section.*

33 *(h) Moneys received through appropriations pursuant to this*  
34 *title shall be used for purposes set forth in paragraph (4) of*  
35 *subdivision (b) of Section 1230.*

36 *(i) Notwithstanding any other provision, none of the savings*  
37 *calculated in subdivision (b) shall be appropriated to any CCPIF*  
38 *where there is no reduction under the baseline set in subdivision*  
39 *(a) in the percentage of individuals supervised by probation in*  
40 *that county who are convicted of a new felony offense, or revoked*

1 from probation and sent to prison, as determined in subdivision  
2 (b).

3 SEC. 3. If the Commission on State Mandates determines that  
4 this act contains costs mandated by the state, reimbursement to  
5 local agencies and school districts for those costs shall be made  
6 pursuant to Part 7 (commencing with Section 17500) of Division  
7 4 of Title 2 of the Government Code.

8 SECTION 1. ~~(a) It is the intent of the Legislature to enact~~  
9 ~~legislation that would reduce recidivism and improve public safety~~  
10 ~~by redirecting state public safety resources to community~~  
11 ~~corrections for the purpose of developing a system of intense and~~  
12 ~~strategic community intervention and supervision over nonviolent~~  
13 ~~offenders who are facing short prison commitments as an~~  
14 ~~alternative to state prison.~~

15 ~~(b) It is also the intent of the Legislature to authorize a county,~~  
16 ~~a city and county, or a collaboration of counties or cities and~~  
17 ~~counties to establish a community corrections program to which~~  
18 ~~convicted felony offenders who are not required to register as sex~~  
19 ~~offenders pursuant to Section 290, who were not sentenced for~~  
20 ~~any offense that is a serious felony, as defined in Section 1192.7,~~  
21 ~~or a violent felony, as defined in Section 667.5, and who do not~~  
22 ~~have a prior conviction for a serious felony, as defined in Section~~  
23 ~~1192.7, or a violent felony, as defined in Section 667.5, could be~~  
24 ~~sentenced by a court for up to nine months, followed by a~~  
25 ~~probationary period of up to four years.~~

26 ~~(c) It is also the intent of the Legislature to enact legislation that~~  
27 ~~would fund the community corrections program through funding~~  
28 ~~from the General Fund, and that these funds would be derived~~  
29 ~~from redirecting state prison incarceration costs to the costs of~~  
30 ~~these community corrections programs.~~